

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 11, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 09HD-106

Hawaii

Issuance of Revocable Permit to John Chiquita, Jr., Waiakea, South Hilo, Hawaii,
Tax Map Key: 3rd/2-2-50:78.

APPLICANT:

John Chiquita, Jr. Married, Tennant in Severalty.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kanoelehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: 3rd/2-2-50:78, as shown on the attached map labeled Exhibit A.

AREA:

10,500 square feet, more or less.

ZONING:

State Land Use District: Urban.
County of Hawaii CZO: ML 20, limited industrial.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Commercial/industrial purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

To be determined by staff appraiser, subject to review and approval by the Chairperson.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "operations of existing structures, facilities or equipment with no change of use beyond that previously existing."

DCCA VERIFICATION:

Applicant is sole proprietorship and, as such, is not required to register with DCCA.

REMARKS:

This property was formerly encumbered under General Lease No. S-3729, to Jean N. Shintani, Trustee of the Jean N. Shintani Revocable Living Trust. GL S-3729 was cancelled effective August 25, 2006 at the request of the Lessee.

The applicant is a certified mechanic and operates an auto body repair, towing and upholstery business. He will be utilizing the property as a repair shop in addition to offering vehicle safety inspections. The proposed use is consistent with the county zoning.

The property is being leased as is. The applicant is aware that the structure is in need of major repairs including roof, siding and windows. Applicant will be responsible for all other repairs and maintenance of the property and shall be responsible for the payment of all utilities and taxes.

Phase I and Phase II Environmental Site Assessments have determined that portions of the property contain petroleum contaminants that will require remediation. As a condition of the month-to-month revocable permit, the applicant will be responsible for the clean-up to be carried out by a licensed, environmental contractor, of any existing contamination on the property as outlined in the Phase II recommendations and submit a certified report upon completion to the Hawaii District Land Office (HDLO).

In addition to the environmental clean up required, extensive renovations to the warehouse are necessary for this property to become commercially and economically viable. The applicant is aware of these requirements and is willing to perform these renovations and improvements at his own cost and expense. As these remediation requirements are necessary and the improvements will ultimately benefit the State, staff is recommending an adjustment in the rental payment for a period of one year in an amount not to exceed 50% of the monthly rent. The applicant shall provide the HDLO with receipts for all expenses incurred with regards to the improvements to the property.

The applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. Although there have been several requests for use of this parcel, the applicant was first to submit the necessary applications and is thus given first consideration.

The subject property is adjacent to and within the vicinity of several DLNR leases that are set to expire around 2015-2016. Staff is evaluating the future long-term development of the area and therefore has determined that a month-to-month revocable permit is most appropriate in this instance.

The County of Hawaii Planning Department is requesting the Applicant conform to the zoning designation of the Hawaii County Code, Section 25-5-142, permitted uses in the ML district and that plans be submitted for approval prior to construction or development of the property.

The County Department of Public Works (DPW) expressed concerns regarding the water runoff from the property and the resulting ponding on the adjacent streets. The Permittee will be required to address these issues and improve the drainage on the property. In addition, the Fire Department is asking that the Applicant comply with all fire code regulations.

The Office of Hawaiian Affairs has reviewed this submittal and has no objection to the reduction in rent as long as the applicant understands the requirements for the environmental clean-up and extensive renovations.

Subject to the applicant meeting all the above conditions, staff is recommending that the Board consent to the issuance of a month-to-month revocable permit for commercial/industrial purposes to John Chiquita, Jr.

RECOMMENDATION: That the Board:


1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to John Chiquita, Jr. covering the subject area for commercial/industrial purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Provide a certified report from a licensed environmental contractor for the remediation of contaminants on the subject lease property as described in the remarks section above;
 - c. Reduction of rent in an amount not to exceed 50% of the monthly rent for a period of one year to allow the Permittee to pay for the remediation. The rent reduction will be for expenses incurred resulting from the remediation of the Phase I and Phase II Environmental Site Assessment and for improvements to the structure;
 - d. Review and approval by the Department of the Attorney General; and
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.


Respectfully Submitted,



 Gordon C. Heit
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

TMK: 3RD/2-2-50:81



